

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of X.L.M., V.E.M., L.B.M., J.M.M.,  
and T.T.M., Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

TA-TANISHA D. FLEMING-MADDOX,

Respondent-Appellant,

and

WILLIE F. MADDOX,

Respondent.

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In the Matter of T.D.M. and J.S.M., Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

WILLIE F. MADDOX,

Respondent-Appellant,

and

TA-TANISHA D. FLEMING-MADDOX

Respondent.

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UNPUBLISHED  
February 11, 2003

No. 237839  
Wayne Circuit Court  
Family Division  
LC No. 97-360976

No. 237920  
Wayne Circuit Court  
Family Division  
LC No. 96-340384

In the Matter of X.L.M., V.E.M., L.B.M., J.M.M.,  
and T.T.M., Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

WILLIE F. MADDOX,

Respondent-Appellant,

and

TA-TANISHA D. FLEMING-MADDOX

Respondent.

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No. 237921  
Wayne Circuit Court  
Family Division  
LC No. 97-360976

Before: Smolenski, P.J., and Wilder and Schuette, JJ.

PER CURIAM.

Respondents-appellants appeal as of right from the orders of the trial court terminating their parental rights to their minor children pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm.

#### I. Facts and Proceedings

These cases first came to the attention of the Family Independence Agency (FIA) due to allegations of neglect by both respondents and allegations of domestic violence by respondent father toward respondent mother. Specifically, respondent mother fled to a domestic assault shelter in October 1997 claiming that respondent father had beaten her. She brought with her X.L.M., V.E.M., and L.B.M. (J.M.M. and T.T.M. were not yet born). While at the shelter, employees noticed that respondent mother was not adequately caring for the children. The children were dirty and had illnesses that respondent mother failed to have adequately treated. Shelter employees stated that they rarely observed respondent mother feed her two younger children and that the two younger children spent most of the day sitting in a stroller that was stained with excrement. Further, V.E.M., who was nearly two years old at the time, had significant developmental problems and was unable to speak, sit up or stand.

In October 1997, police cited respondent mother for larceny from a building (a misdemeanor) for taking less than \$15.00 in merchandise from a store. X.L.M., V.E.M., and L.B.M. were with her at the time of the crime. When respondent mother left the domestic

violence shelter in November 1997 to rejoin respondent father, shelter workers alerted the authorities about the alleged neglect and domestic violence.

A preliminary hearing was held November 7, 1997, where the trial court determined that the children should be placed in foster care. The FIA petitioned for temporary custody and a trial was held January 7, 1998, wherein the trial court found that the allegations of neglect and domestic violence were substantiated by a preponderance of the evidence and assumed jurisdiction of the children. In a hearing shortly thereafter, the trial court ordered that both respondents attend parenting classes, domestic violence counseling and individual therapy.

Several review hearings were held during 1998 and the trial court continued to stress to respondents the requirements for regaining custody of their children, specifically: drug testing; drug evaluation and compliance with any recommendations; individual therapy; and verification of having completed and benefited from parenting classes. During 1998 and 1999, X.L.M., V.E.M., and L.B.M. remained in foster care while respondents made some attempts to comply with the court order. However, respondents were never in full compliance and the trial court was particularly concerned about respondent father's drug screens showing positive for low levels of cocaine and marijuana and respondent mother's failure to recognize that her relationship involved domestic violence.

In addition, during 1998 and 1999, two older children, T.D.M. and J.S.M., children of respondent father from a previous relationship, lived with respondents after their mother was murdered. In January 2000, respondents had another child, J.M.M. FIA removed J.M.M., T.D.M., and J.S.M. from respondent's care after caseworkers found their living conditions to be unsuitable. Respondents did not have a lease; the city owned respondent's house and it was scheduled to be sold. Debris littered the backyard and porch and respondents were keeping a pit bull on the front porch. Kerosene heated the home because there was no gas service to the house due to an outstanding gas bill of \$6,000 owed by respondent father. In January 2001, respondents had another child, T.T.M. The trial court took jurisdiction of T.T.M. shortly after her birth.

In July 2001 a permanent custody hearing was held. The court determined that despite numerous efforts by the agency and emphasis by the trial court of the importance of domestic violence counseling, respondents had failed to address this issue. With respect to income, respondent mother was receiving \$525 monthly in Social Security disability benefits. Her disability is mental and she functions approximately at the level of an eleven-year-old; there are no expectations that she will seek or find employment. Respondent father is unemployed and has no income. He testified that he had not worked since November 2000 due to deteriorating health of an unspecified nature. As of July 2001, respondents were still living without a lease in the house owned by the city that the FIA had deemed unsuitable for seven children.

At the July 2001 permanent custody hearing, a caseworker testified that X.L.M. had been exhibiting behavior problems. In addition, V.E.M. and J.M.M. are both developmentally delayed and J.M.M. has a hearing problem. In addition, T.D.M. has had some problems relating to the murder of her mother, but when she was in respondent father's care after the murder, he kept her out of school for two years and did not seek treatment.

Based on the permanent custody hearing, the trial court found clear and convincing evidence to terminate respondents' parental rights under both MCL 712A.19b(3)(c)(i) and (g), and further found that termination was not contrary to the best interests of all seven children. The trial court subsequently entered orders to this effect.

## II. Standards of Review

To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993). This Court reviews the trial court's findings of fact for clear error. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court on the entire record is left with a definite and firm conviction that a mistake has been made. *Id.* Regard is given to the special ability of the trial court to judge the credibility of the witnesses who appeared before it. *Id.*

Once the petitioner has established a statutory ground for termination by clear and convincing evidence, the trial court is required to order termination of parental rights unless the court finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000). The trial court's decision regarding the child's best interests is reviewed for clear error. *Id.*

## III. Analysis

The trial court did not err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller, supra* at 337. The conditions that led to adjudication continued to exist at the time of termination. In the more than three years that the case was before the trial court respondents-appellants failed to obtain adequate housing and failed to complete domestic violence counseling as ordered by the trial court. Respondents-appellants also failed to provide proper care for their children when in their care and appeared to be no closer to being able to do so after three years of services.

In addition, the evidence did not show that termination of respondents-appellants' parental rights was clearly not in the best interests of the children. MCL 712A.19b(5); *In re Trejo, supra*. Respondents have no home and very little income. Respondent father claims declining health and respondent mother is mentally disabled. They now have seven children between them and several of them have special needs which respondents would be unable to meet. The trial court therefore did not err in terminating respondents-appellants' parental rights to the children.

Affirmed.

/s/ Michael R. Smolenski  
/s/ Kurtis T. Wilder  
/s/ Bill Schuette